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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,766	10/23/2001	Chaoying Zhang	AUD1P009	7541
22434 7590 09/08/2005			EXAMINER	
BEYER WEAVER & THOMAS LLP			HARVEY, DIONNE	
P.O. BOX 70250 OAKLAND, CA 94612-0250			ART UNIT	PAPER NUMBER
			2646	,
			DATE MAILED: 09/08/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
	10/037,766	ZHANG ET AL.
Office Action Summary	Examiner	Art Unit
	Dionne N. Harvey	2646
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	correspondence address
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period w - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tir will apply and will expire SIX (6) MONTHS from the cause the application to become ABANDONE	N. nely filed the mailing date of this communication. ED (35 U.S.C. § 133).
Status		
1)⊠ Responsive to communication(s) filed on 11 Apr 2a)☐ This action is FINAL. 2b)☑ This 3)☐ Since this application is in condition for alloward closed in accordance with the practice under Expression 1.	action is non-final. nce except for formal matters, pro	
Disposition of Claims		
4) Claim(s) is/are pending in the applicatio 4a) Of the above claim(s) is/are withdraw 5) Claim(s) is/are allowed. 6) Claim(s) is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) <u>1-17 19-23 25-33</u> are subject to restrict	vn from consideration.	t.
Application Papers		
9) The specification is objected to by the Examine 10) The drawing(s) filed on is/are: a) accomplicant may not request that any objection to the Replacement drawing sheet(s) including the correct 11) The oath or declaration is objected to by the Examine	epted or b) objected to by the drawing(s) be held in abeyance. Se ion is required if the drawing(s) is ob	e 37 CFR 1.85(a). jected to. See 37 CFR 1.121(d).
Priority under 35 U.S.C. § 119		
a) All b) Some * c) None of: 1. Certified copies of the priority documents 2. Certified copies of the priority documents 3. Copies of the certified copies of the priority application from the International Bureau * See the attached detailed Office action for a list	s have been received. s have been received in Applicativity documents have been received in Proceived in Proc	ion No ed in this National Stage
Attachment(s) 1) Notice of References Cited (PTO-892)	4) ☐ Interview Summary	(PTO-413)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date	Paper No(s)/Mail D	

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DETAILED ACTION

Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - Claims 1-17, 19-23 and 25-28, drawn to a method for upgrading a hearing device, classified in class 381, subclass 312.
 - II. Claims 29-31, drawn to a computer readable medium including at least one program code classified in class 381, subclass 314.
 - III. Claims 32-33, drawn to a hearing aid upgrade server apparatus classified in class 381, subclass 323.

The inventions are distinct, each from the other because of the following reasons:

- 2. Inventions I, II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility, for example, the specifics of Invention II are not required for invention I. See MPEP § 806.05(d).
- 3. Because these inventions are distinct for the reasons given above and the search required for Group II is not required for Group I or Group III, restriction for examination purposes as indicated is proper.

4. A telephone call was made on 9/6/2005 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dionne N. Harvey whose telephone number is 571-272-7497. The examiner can normally be reached on 9-5:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D. Harvey

SUHAN NI PREMARY EXAMPLER